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S.B. 185
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: No

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Highlights

- A new cause of action in the courts of common pleas or the Ohio Court of Claims related to the preservation of firearms rights may increase the number of cases filed in those courts, leading to additional administrative costs for those courts and additional litigation and potential settlement costs for the state or a political subdivision.
- The extension of valid and existing concealed handgun licenses during an emergency will likely result in at least some short-term loss of renewal fees received by the Attorney General and county sheriffs with a corresponding reduction in workload and related expenses.
- The bill's application of a mandatory five-year prison term for aggravated vehicular homicide when the victim is a firefighter or an emergency medical worker may increase the number of offenders sentenced to prison. Presuming that increase is relatively small, then the increased incarceration costs are likely to be minimal annually.

Detailed Analysis

The bill (1) generally prohibits any restrictions on firearms rights during any disaster, war, act of terrorism, riot, civil disorder, public health crisis, public nuisance, or emergency of whatever kind or nature, and (2) extends the validity of a concealed handgun license during a declared emergency and for 90 days after the emergency ends.

Preservation of firearms rights during an emergency¹

Civil action

Under the bill, a person, group, or entity adversely affected by any manner of law or other action enacted or enforced in violation of the bill is permitted to file an action for damages, injunctive relief, declaratory relief, or other appropriate redress in the court of common pleas of the county in which the aggrieved person resides or the group or entity is located. If a firearm, firearm component, or other deadly weapon is confiscated or seized, a person is permitted to apply to the court of common pleas of the county in which the item or items were seized or confiscated for the immediate return of the item or items. If a court orders the return of seized or confiscated items and the item or items are not returned in accordance with the order, the aggrieved party may claim reasonable costs and attorney fees for the loss and the cost of reclaiming the item or items, or the cost of any damages to the item or items. If the claim is filed against any state agency, official, employee, or other agent of the state for money damages, it is to be filed with the Ohio Court of Claims.

These provisions may increase the number of cases filed in the courts of common pleas and the Ohio Court of Claims, leading to additional administrative costs for those courts, and additional costs for the state or political subdivision to respond, and in some cases, additional costs in the form of damages. Because the cause of action relies on the declaration of an emergency, it is likely that any opportunity for a violation to occur will be rare, and, assuming the state and political subdivisions generally follow the law, the fiscal impact will be minimal at most.

Extension of concealed handgun license

Under the bill, if (1) a concealed handgun license has been issued to a licensee, (2) the Governor issues an executive order declaring an emergency, and (3) the date that the valid and existing license would or is scheduled to expire falls within the period of emergency,² the license is automatically extended throughout the duration of the period of the emergency plus an additional 90 days.

Under current law, the cost of a concealed carry license is as follows: new (\$67/\$91) and renewal (\$50/\$74).³ A license is valid for five years. The county sheriff collects the fees as part of their duties and responsibilities to administer and enforce the state's concealed carry laws. The sheriff retains a portion of the fee for crediting to the Sheriff's Concealed Handgun License Issuance Expense Fund, which is used for any costs incurred by the sheriff in connection with performing any administrative functions related to the issuance of concealed handgun licenses.

¹ The firearms rights involve the transport, storage, sale, transfer, commerce in, import and export of, distribution, repair, maintenance, and manufacture of deadly weapons or firearms, ammunition, and accessories and components related to deadly weapons or firearms, shooting ranges, and other goods and services directly related to lawful deadly weapon or firearm possession, use, storage, repair, maintenance, sale, and transfer, and training in the use of deadly weapons or firearms.

² Or the 30 days immediately preceding the date of that declaration.

³ Applicants residing in Ohio for five years or more pay a fee of \$67 for a new license or \$50 for a renewal license. Applicants residing in Ohio for less than five years pay an additional \$24 for a new or renewal license for the cost of the required FBI background check (R.C. 2923.125).

The remainder is credited to the state's General Reimbursement Fund (Fund 1060), which the Attorney General uses, in part, to fund the cost of background checks performed by the Bureau of Criminal Investigation (BCI), as well as any checks requested from the FBI.

The extension during an emergency will likely result in at least some short-term loss of revenue received by the Attorney General and county sheriffs with a corresponding reduction in workload and related expenses. Revenue lost during the deferral period would presumably be mostly regained following the end of the emergency period and additional 90-day extension period while workload and related expenses may increase to accommodate any backlog of licenses.

Political subdivision suppression of a riot or mob

The bill's changes to a political subdivision's emergency powers, as described below, will have no direct fiscal effect on the state or political subdivisions.

Under current law, the chief administrative officer of a political subdivision with police powers is permitted to prohibit the sale, offering for sale, dispensing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to, or from areas cordoned off for the suppression of a riot or when there is clear and present danger of a riot. The bill removes this permission as related firearms or other dangerous weapons, and ammunition while retaining it for dynamite or other dangerous explosives.

Under continuing law, when engaged in suppressing a riot or when there is a clear and present danger of a riot, the chief administrative officer of a political subdivision with police powers is permitted to (1) cordon off any area or areas threatened by the riot, and (2) generally prohibit a person from entering the cordoned off area. The bill extends these provisions to include the suppression of mobs, as well as riots.

Aggravated vehicular homicide – prison term specification

The bill applies a mandatory five-year prison term for aggravated vehicular homicide when the victim is a firefighter or an emergency medical worker. Current law applies the same mandatory sentence when the victim is a peace officer or a BCI investigator.

A violation of the offense of aggravated vehicular homicide, depending on the circumstances present, is a first, second, or third degree felony, each carrying varying penalties. A first or second degree felony carries a mandatory indefinite prison term with a minimum and maximum sentence by the sentencing court; a third degree felony carries a discretionary prison term. The additional five-year prison term enacted by the bill is served prior to, and consecutive to, the term imposed for the underlying aggravated vehicle homicide, as required under current law.

There are at least two likely future outcomes compared to what may have occurred in the sentencing of such persons under current law: (1) the person will be sentenced to a prison term instead of being sanctioned locally at the county's expense for a third degree felony offense, or (2) the person will serve an additional five years in prison.

The most notable fiscal effect will be to increase the Department of Rehabilitation and Correction's (DRC) annual incarceration costs. From FY 2018-FY 2022, the number of offenders committed annually to prison for the primary offense of aggravated vehicular homicide averaged 78 (ranged from 65 to 95). The number of those offenders involving a firefighter or an emergency

medical worker is unknown. If that number is relatively small, then the increased incarceration costs are likely to be minimal annually. In FY 2022, DRC's annual cost to incarcerate an offender was \$36,485; their marginal cost was \$4,128.